

## **History on Achieving an Agreement for Cooperative Resource Management for the Flathead River Basin with British Columbia**

February 2005

- 1982. The Flathead River Basin EIS concluded that there are environmental threats, including the proposed Cabin Creek coal mine in the North Fork of the Flathead River of British Columbia (BC) to water quality of Flathead Lake and River. The Study recommended the creation of the Flathead Basin Commission (FBC) to address these threats, which was created by the MT legislature in 1983.
- December 1988. After three years of intensive investigations by a large, binational group of scientists, the International Joint Commission (IJC) recommended against the proposed Cabin Creek coal mine, which was proposed a few miles north of the border in BC. The IJC further recommended, "Governments consider, with the appropriate jurisdictions, opportunities for defining and implementing compatible, equitable and sustainable development activities and management strategies in the upper Flathead River Basin." In the final report, the IJC further recommended that governments consider creating an International Conservation Reserve that Governor Schwinden proposed for the North Fork and supported in testimony to the IJC.
- Spring 1989. The 51<sup>st</sup> MT Legislature passed House Joint Resolution No.9 that requested "the governments of Montana, BC, the U.S. and Canada establish a cooperative structure to achieve conservation goals in the drainage while maintaining appropriate resource development options." Mercer, Harding, B. Brown, Harp, Peterson, Pinsoneault, Vaughn, Connelly, Boharski, Smith, Lee, R. Nelson, Owens, Aafedt, Hayne, and Cohen sponsored the Resolution.
- 1989. Governor Stephens wrote to Premiere Vander Zalm of BC requesting the formation of a binational working group to examine the IJC recommendations and to formalize a collaborative framework for the cooperative management of the North Fork. He directed the FBC to take the lead. BC response was gracious, but indicated that it was not ready.
- 1991. Governor Stephens realized that before Montana could begin formal negotiations, the landowners and agencies with land management jurisdictions within the North Fork needed to establish their own vision and goals for the basin. After a year of intensive negotiations, the North Fork watershed group achieved consensus on its *North Fork Conceptual Strategy*. The FBC and Governor Stephens approved the *Conceptual Strategy*.
- Governor Stephens wanted an agreement with BC on the North Fork before he left office, but BC informed him that it needed to first complete the four-year CORE (Commission on Resources and the Environment) process for the East Kootenay, which included the North Fork of BC before meeting with Montana.

- Governor Racicot pursued formal negotiations with Premier Harcourt of BC on developing an agreement for the cooperative management of the North Fork. He re-appointed the FBC to take the lead. BC responded that the Province would not be ready until the CORE process was completed, but invited Montana to participate informally in the process.
- Governor Racicot again requested BC to consider creating "an international roundtable that would assist in guiding management of the shared resources in the North Fork" and thanked the Premier for allowing the FBC to participate in the CORE process. BC was again gracious, but still did not want to create a formal structure.
- 1995-1999. Governor Racicot continued to pursue negotiations with BC on the North Fork but without success.
- February 2000. The FBC wrote to the IJC requesting that it form an International North Fork Watershed Board to allow for a more effective cooperation and management across the border. Even though creating International Watershed Boards is a goal of the IJC as published in its strategy entitled the *IJC and the 21st Century*, the IJC decided against it because of the lack of support from BC.
- June 2001. The Liberal Party replaced the previous government. The new Premier, Gordon Campbell, opened a dialogue with Montana on pursuing a state/provincial arrangement for managing our shared resources.
- September 2003. Governor Martz and Premier Campbell signed the *Environmental Cooperation Arrangement* and it states; "...The Province of British Columbia and State of Montana undertake to establish the British Columbia/Montana Environmental Cooperation Initiative to identify, coordinate and promote mutual efforts to ensure the protection, conservation and enhancement of our shared environment for the benefit of current and future generations." An MOU is the mechanism to implement the *Arrangement* and the above language.
- February 2004. As the follow-up to the Agreement signed by the Governor and Premier, BC sent a draft MOU to Montana to review and sign. With the increase resource extraction interests in the Flathead of BC in the spring of 2004, Montana set the MOU aside.
- March 2004. BC gave preliminary approval to Cline Corp. to develop a new coalmine at the same Cabin Creek site in BC and proposed to issue coalbed methane leases in the headwaters of the North Fork.
- May 2004. Governor Martz asked the IJC to examine the affects of the proposed BC developments on water quality, water uses, and many special designations throughout the region and requested BC to defer permitting these projects until after the IJC has had an opportunity to complete its review and assessment.

- July 2004. BC dropped Cline's proposed coal lease at the Cabin Creek site identifying incompatibility with the existing resources and special designations in the basin (i.e. Waterton Lakes NP and Glacier NP), but still wanted to pursue coalbed methane development.
- August 2004. BC officials met with MT officials on the B.C. process for coalbed methane development. Based on that meeting, Governor Martz sent a letter to BC and the Canadian federal government requesting an EIS be completed under Canadian federal law before moving forward with the leases.
- August 2004. No energy company bid on the coal leases primarily because of the high costs and uncertainty for extracting gas from very difficult seams and the strong opposition within Fernie, BC and Montana.
- Summer of 2004. Many interests within the Flathead Basin were involved with the BC resource development issues—Flathead Basin Commission, Flathead Lakers, Confederated Salish and Kootenai Tribes, Flathead Coalition, Fernie, BC City Council, and others. They have reviewed and commented on the draft MOU and their comments were the basis for the suggested changes to the MOU.
- November 2004. British Columbia permitted Cline Corp. to build roads and drill and test 90 tons of coal in the headwaters of the NF of the Flathead. Montana was not notified.
- February 2005. Montana still needs to modify BC's draft MOU agreement and send it back to BC. Folks within the Flathead and Kootenai, such as the Tribes, FBC, Flathead Lakers and Flathead Coalition should have an opportunity to review and comment on the final draft of the MOU. This is a wonderful opportunity for Montana to put language into the MOU that is consistent with the IJC recommendations and what four previous governors and folks, primarily in the Flathead, have been trying to accomplish for over 15 years.
- March 2005. Senator Weinberg passes Senate Joint Resolution 7 urges the Governor to negotiate terms agreeable to both sides regarding development in the North Fork of the Flathead.
- February 18, 2010. Governor Schweitzer and Premier Campbell sign *MOU and Cooperation on Environmental Protection, Climate Action and Energy* at Olympic Media Center, Vancouver. Witnessed by Michel Kenmille, council member Confederated Salish and Kootenai Tribes, and Kathryn Teneese, Chair of Ktunaxa Nation Council.